

ARGUMENT

At the time the present Office Action issued, claims 1 to 16 were pending. Claims 1, 2, 5-9, and 13-16 stand rejected, while claims 3, 4, 10-12 have been objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

Allowable subject matter

The Examiner is cordially thanked for having identified claims 3, 4, 10-12 to contain allowable subject matter provided that they are rewritten in independent form including all of the limitations of the base claim and any intervening claims (See Numbered Paragraph 6 of the Office Action).

However, in view of the arguments presented in respect of the rejection of the base claim and intervening claims, Applicant deems it not necessary to rewrite the allowable claims at this point.

Claim rejections under 35 USC §102(e) and 35 USC §103(a)

In Numbered paragraphs 1 and 2 of the Office Action, claims 1, 2, 9, 13, 15, and 16 have been rejected under 35 USC §102(e) as being anticipated by Williams *et al* US Patent 7,100,689.

In Numbered paragraphs 3 to 5 of the Office Action, claims 5-8 and 14 have been rejected under 35 USC §103(a) as being unpatentable over the same art, Williams *et al.*

Attorney for Applicant respectfully traverses the rejections.

The cited reference Williams *et al* does not qualify as prior art under 35 USC §102(e).

Examiner's attention is kindly drawn to a foreign priority claim under 35 USC §119(a)-(d) based on European application no. 02254596.6, filed 28 June 2002, which antedates the filing date of the cited reference (see MPEP 2136.05). Receipt of priority documents has been acknowledged by the US Patents and Trademarks Office in the Notice of Acceptance mailed 27 July 2005, and the priority claim is shown on the Filing Receipt mailed on the same day.

This shows a constructive reduction to practice by the present Applicant before the filing of the application by Williams *et al* that led to the presently cited US Patent 7,100,689, which was on 23 December 2003. The construction to practice was also before the filing of provisional application no. 60/436,061 of which Williams *et al* claim priority benefits, which was on 23 December 2002.

So even if 23 December 2002 would be the earliest effective filing date for the subject matter of US Pat. 7,100,689, it still does not qualify as prior art under 35 USC §102(e) because it is antedated by the effective filing date of the present application. For that reason, the rejections are defective (see MPEP 2136.05).

Reconsideration is respectfully requested, and ultimately, withdrawal of the rejections.


Concluding remarks

In conclusion, Attorney has addressed each and every ground for objection and rejection raised by the Examiner in the Office Action. Reconsideration is respectfully requested.

Attorney respectfully submits that the specification, drawings, and claims are in a state ready for allowance. In the event the Examiner has any questions or issues regarding the present application, the Examiner is invited to call the undersigned prior to the issuance of any written action.

Respectfully submitted,

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